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APPENDIX

"An act to regulate and license the business of producing, refining or distributing gasoline, distillate and other motor vehicle fuels, providing for the collection and disposition of license taxes, prescribing penalties for violation of the provisions of said act, and repealing all acts and other parts of acts inconsistent herewith.

The People of the State of California do enact as
2 follows:

Section 1. The following words, terms and phrases shall, whenever used in this act, have the meaning set forth in this section.

(a) "Motor Vehicle" shall include any vehicle operated upon the highways of this state which is propelled by the use of motor vehicle fuel.

(b) "Motor vehicle fuel" shall include all gasoline, distillate, benzine, naptha, liberty fuel and other volatile and inflamable liquids produced or compounded for the
3 purpose of, or which may be used in operating or propelling motor vehicles except kerosine and except unfinished products requiring rerun, blending, or compounding and which are not used or sold for use in such form for the purpose of operating or propelling motor vehicles.

(c) "Distributor" shall mean and include every person, firm, association or corporation who refines, manufactures, produces or compounds motor vehicle fuel in this state and sells the same in this state; also every person, firm, association or corporation who imports any motor vehicle fuel into this state and sells the same in this state whether in the original packages or containers

in which it is imported or otherwise than in such original packages or containers; or imports any such fuel for his own use in this state; also every person, firm, association or corporation who, having acquired in this state in the original package or container motor vehicle fuel which has been imported into this state, shall distribute or sell the same, whether in such original package or container in which the same was imported or otherwise than in such original package or container.

(d) "Service station" is a place operated primarily for the purpose of delivering motor vehicle fuel into the fuel tanks of motor vehicles.

Sec. 2. Every distributor shall within ten days after this act becomes effective and thereafter any person, firm, association or corporation before becoming a distributor shall register as such with the state board of equalization on forms to be prescribed, prepared and furnished by said board of equalization, and said state board of equalization shall issue to such distributor a license which shall be valid until revoked by said board as hereinafter provided.

Sec. 3. Every distributor shall from and after September 30, 1923, in addition to any other taxes provided by law, pay a license tax to the state controller of this state of two cents for each gallon of motor vehicle fuel refined, manufactured, produced or compounded by such distributor in this state and sold and delivered by him in this state, or imported by such distributor into and distributed or sold by him in this state otherwise than in the original package or container in which such motor vehicle fuel was imported into this state, and for each gallon of motor vehicle fuel imported into this state and

thereafter acquired by such distributor in the original package or container in which the same was imported and thereafter distributed or used by such distributor or sold by him otherwise than in the original package or container in which the same was imported into this state and for each gallon of motor vehicle fuel sold, distributed or used by him from any stock on hand or held in storage by him on September 30, 1923. From any amount found to be due upon any report hereunder the distributor shall first be allowed to deduct one per cent of the tax otherwise due hereunder to cover subsequent losses occasioned by evaporation and handling.

(SECTION 4 AMENDED, being Chap. 359, Laws of 1925.)

Sec. 4. License taxes herein required to be paid shall be paid in quarterly instalments to the state controller for the quarters ending December thirty-first, one thousand nine hundred twenty-three, and ending March thirty-first, June thirtieth, September thirtieth and December thirty-first in the year one thousand nine hundred twenty-four and each year thereafter. Said tax shall be a lien upon all the property of the distributor. It shall attach at the time of the delivery or distribution, subject to the tax, shall have the effect of an execution duly levied against all property of the distributor, and shall remain until the tax is paid or the property sold for the payment thereof. The amount of such license tax becoming due during each such quarter shall be paid within thirty-five days after the end of the quarter for which the same is due, and if not paid prior thereto shall become delinquent at five o'clock P. M. on the forty-fifth day after the end of such quarter, and ten

10 per cent penalty shall be added thereto for delinquency.

Sec. 6. Statements to be filed by the distributor. Tax to be computed therefrom. Within 20 days after the quarter ending December 31, 1923, and within 20 days after each following quarter, filed on forms furnished by state board of equalization, a verified statement, etc. The state board of equalization shall compute tax due and extend same on tax roll and on or before 30 days from and after close of each quarterly period shall deliver said tax roll to the state controller who shall give
11 due notice of the date when said taxes shall become due.

(Section 7 Amended in 1925, being Chap. 359, Laws 1925.)

Sec. 7. All motor vehicle fuel distributed by any distributor to any of its service stations, or other agencies, tank trucks, wagons, boats, barges, or other facilities operated by such distributor in this state shall for the purpose of this act be considered in the same manner and the same license tax shall be paid upon such motor vehicle fuel as though the same had been sold and de-
12 livered by such distributor; *provided,* that the amount of motor vehicle fuel distributed during any quarter to any agency, tank truck, wagon, boat, barge, or other facility operated by the distributor is hereby defined to mean the amount thereof thereafter found to have been sold and delivered therefrom during such quarter plus one-ninety-ninth thereof but excluding therefrom deliveries to service stations operated by such distributor.

All motor vehicle fuel used by a distributor in the operation of any motor vehicle shall for all the purpose of this act be considered in the same manner and the same license tax shall be paid upon such motor vehicle

13 fuel as though the same had been sold by such distributor; *provided, however,* that in lieu of the collection and refund of the tax upon such fuel used for exempt purposes a credit may be given such distributor upon his tax return and assessment.

Nothing in this act shall be construed as requiring the payment of the license tax herein specified upon more than one sale, distribution or transfer of the same motor vehicle fuel.

(Section 10 Amended, being Chap. 359, Laws of 1925,
14 and Chap. 716, Laws of 1927.)

Section 10. The provisions of this act requiring the payment of license fees shall not be held or construed to apply to motor vehicle fuel imported into this state in interstate or foreign commerce and intended to be sold in the original and unbroken tank cars or other original receptacles, containers or packages and sold while the same are in interstate or foreign commerce nor to any motor vehicle fuel exported or sold for exportation and
15 exported for use outside of the state, nor to any motor vehicle fuel sold to the government of the United States or any department thereof (for official use of said government), but every distributor shall be required to report such exports and sales to the state board of equalization in such detail as that board shall require.

(Section 11, Amended, being Chap. 359, Laws of 1925, and Chap. 716, Laws of 1927.)

Sec. 11. *Any person, firm, association or corporation who shall buy and use any motor vehicle fuel for purposes other than in motor vehicles operated, or intended to be operated upon the public highways of the State of*

California or export the same for use outside of this state; also any person, firm, association or corporation who shall buy any motor vehicle fuel and use the same exclusively in the transportation of rural free delivery mails, and who shall have paid any license tax for such motor vehicle fuel hereby required to be paid, either directly or to the vendor from whom it was purchased, or indirectly by the adding of the amount of such tax to the price of such fuel, shall be reimbursed and repaid the amount of such tax paid by him, or if upon presenting to the state controller an affidavit accompanied by the original invoices showing such purchase, which affidavit shall be verified by the oath of the claimant and shall state the total amount of such fuel so purchased and the same has been used by said consumer for the transportation of rural free delivery mails or for uses other than in motor vehicles operated upon any of the public highways in the State of California. The said state controller, upon the presentation of such affidavits and such invoices or vouchers, shall cause to be paid to such consumer, from the license taxes collected in accordance with the provisions of this act, an amount equal to the license taxes collected hereunder on the motor vehicle fuel so purchased or so used. All such applications shall be filed with the state controller within twelve months from the date of the purchase of such motor vehicle fuel. Any application filed after such twelve months shall not be considered for any purpose by the state controller, the treasurer or the State of California.

Sec. 13. Motor Vehicle Fuel Fund created. Amount to go to counties for road purposes. Semi-annual distribution to counties. Supervisors to report distribution

of moneys. Remainder paid into state highway maintenance fund. All such money from such tax shall be paid by the counties into a special road improvement fund and used exclusively in the construction and maintenance of roads, bridges and culverts. Such money to be distributed to the counties by the state controller semi-annually in May and November of each year. Supervisors of the counties to report distribution of moneys. Remainder of money from such tax paid into state highways maintenance fund which fund is created for the maintenance, repair, widening, resurfacing and reconstruction of the state highways and of roads and highways in state parks.

(Section 14 Amended, being Chap. 359, Laws of 1925.)

Sec. 14. *Any person, firm, association or corporation or any officer or agent thereof failing to pay the tax as herein provided, or violating any of the other provisions of this act, or unlawfully making any false statement, or concealing any material fact in any record, report, affidavit or claim provided for herein, shall be guilty of a misdemeanor, unless such act is by any other law of this state declared to be a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.*

The state board of equalization shall have power to revoke the license of any distributor refusing or neglecting to comply with the provisions of this act."

Sec. 15. Constitutionality. Validity sustained if any section, etc., held to be unconstitutional.

(Section 18. An Additional Section Enacted in 1925)

Sec. 18. All matters of procedure relating to refunds of taxes or the cancellation of any assessment levied under the provisions of this act shall be governed by the provisions of section three thousand six hundred sixty-nine of the Political Code.

CHAPTER 795, p. 1565, Laws of 1927.

An act to regulate and license the business of producing, refining or distributing gasoline, distillate and other motor vehicle fuels, providing for the collection and disposition of license taxes, and adopting those provisions, not inconsistant herewith, of an act entitled, "An act to regulate and license the business of producing, refining or distributing gasoline, distillate and other motor vehicle fuels, providing for the collection and disposition of license taxes, prescribing penalties for violation of the provisions of said act, and repealing all acts and parts of acts inconsistent herewith," approved May 30, 1923, as amended and approved May 23, 1925.

(Approved by the Governor, May 26, 1927. In effect July 29, 1927.)

The people of the State of California do enact as follows:

Section 1. In addition to the two cents license tax provided for in an act entitled "An act * * *," and referred to herein as the "original act", every distributor, as defined in said "original act", shall pay a license tax to the state controller of this state of an additional one cent for each gallon of motor vehicle fuel, as defined in said "original act", said license tax to be computed, paid and collected in the same manner at the same intervals of time as in said "original act" provided.

All moneys received by state controller from payment of the additional license tax under the provisions of this act shall be by him deposited in the state treasury of this state and credited to the "motor vehicle fuel fund" created in said "original act" and shall be subject to the payment of one-third of the refunds provided for in section eleven of said "original act" in the manner therein provided. After the payment of said proportion of said refunds, the balance of said moneys received hereunder shall be by the state controller credited to the "State highway construction fund," which fund is hereby created.

Sec. 2. All moneys so credited to said state highway construction fund shall be allocated and expended by the California highway commission of this state for the acquisition of rights of way for and the construction and improvement of state roads and highways in accordance with that certain act entitled "An act to provide for the acquisition of rights of way for and the construction, maintenance and improvement of state highways, classifying the highways in the state system and allocating and directing the expenditure of funds for the construction, maintenance and improvement of state highways," passed at the forty-seventh session of the Legislature or as subsequently amended, and in the event that said last mentioned act shall not be enacted into law at the forty-seventh session of the Legislature then and in event the license tax of an additional one cent for each gallon of motor vehicle fuel imposed under this act shall cease and be inoperative.

All moneys withdrawn from the state highway construction fund shall be upon warrants drawn by the state

28 controller upon demands made by the said California highway commission and allowed and audited by the state board of control of this state.

Sec. 3. All provisions, penalties and requirements now contained in said "original act", not inconsistent herewith, are hereby adopted and made a part of this act, notwithstanding any repeal or amendment of said "original act", hereafter.

MOTOR VEHICLE ACT, BEING CHAP. 266, LAWS
29 OF 1923, AS AMENDED.

(Section (d) 77 of said law)

"(d) If the license tax provided for by that certain act entitled "An Act to regulate and license the business of producing, refining or distributing gasoline, distillate and other motor vehicle fuels, providing for the collection and disposition of license taxes, prescribing penalties for violation of the provisions of said act, and repealing all acts and parts of acts inconsistent herewith," heretofore adopted by the Legislature at its forty-fifth session is
30 held by the Supreme Court of the State of California, or by the Supreme Court of the United States, to be unconstitutional, then beginning with the first year next succeeding the date upon which such decision becomes final there shall be paid upon and for the registration and reregistration of every motor vehicle with the division of motor vehicles, in addition to any other fees imposed by law, a registration fee of five dollars for every electric motor vehicle and for every other motor vehicle a fee amounting to the sum of forty cents for each horsepower or major fraction thereof of such motor vehicle and a proportionate amount thereof for the regis-

tration of such vehicle for a period of less than one year. The horsepower of any motor vehicle, except electric or steam driven motor vehicles, shall be determined by the formula commonly known as that of the Association of Licensed Automobile Manufacturers (A. L. A. M.) being as follows: Square the diameter of the cylinder in inches, multiply by the number of cylinders and divide by two and five-tenths; provided, that for the purpose hereof the horsepower of any steam driven motor vehicle shall be the horsepower rating fixed and advertised by the manufacturer thereof. In the event that the registration fees for motor vehicles and fees based on horsepower as hereinabove specified shall be collected, all such fees shall be paid into the motor vehicle fund of the State of California and shall be distributed and used for such purposes as may be provided by law for the distribution and use of such motor vehicle fund; and provided further, that in the event the provisions of the section, relative to registration fees, based upon horsepower rating shall become effective the provisions of this section contained in subdivisions (a) and (b) shall be deemed to be superseded."

"The State of California duly adopted a Constitution and the following provisions are found:

Art. IV, Sec. 22:

"No money shall be drawn from the treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the

state treasury for the purpose or benefit of any corporation, etc."

Art. IV, Sec. 24:

"Every act shall embrace but one subject, which shall be expressed in its title. * * * No law shall be revised or amended by reference to its title, but in such case the act revised or section amended shall be reenacted and published at length as revised or amended;"

Art. IV, Sec. 25:

"The legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

* * * * * * *

[fol. 5] Tenth. For the assessment or collection of taxes. * * * *.

Fifteenth. Refunding money paid into the State Treasury.

Nineteenth. Granting to any corporation, association, or individual any special or exclusive right, privilege or immunity.

Twentieth. Exempt property from taxation."

Art. IV, Sec. 31:

"The legislatute shall have no power to give or to lend, or to authorize the giving or lending, of credit of the state * * *, in aid of or to any person, association, or corporation, * * *, nor shall it have power to make any gift of any public money or thing of value to any individual, etc., whatsoever. * * *."